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Desp. No. 2228
From AMEMBASSY BONN

Claims of Niedersachsen Government to Ownership of Volkswagenwerke
(From Memorandum of May 29, 1957 from
American Consulate General, Hamburg)

Niedersachsen Finance Minister Koch (CDU) is the principal advocate of the claim. He and his staff base their claim in the name of the Niedersachsen Government on Allied Control Council Law No. 2, ACC Directive No. 50, British Military Government Regulation 192 and British High Commissioner Regulation No. 254. The legal arguments supporting the claim and precedents cited are roughly as follows:

The Volkswagenwerke was established by the Deutsche Arbeitsfront (DAF), a Nazi successor organization to the trade unions. The DAF itself, however, was not a juridical person but founded two G.m.b.H. to administer all DAF property. One, the Truhandgesellschaft fuer wirtschaftliche Unternehmungen, was capitalized at DM 5 million, the other at DM 155 million. Both were involved in the financing of Volkswagenwerke. Since the two G.m.b.H. were established by DAF to administer property it had seized or developed, Volkswagenwerke was wholly DAF and hence NSDAP property. According to Oberregierungsrat Diestel (spokesman for Niedersachsen Finance Minister) Federal Finance Minister Schaeffer concurred in this view in July 1953.

Control Council Law No. 2 provides for dissolution of NSDAP organizations (including DAF, and by implication Volkswagenwerke). There are a number of examples where similarly owned DAF subsidiaries such as Deutsche Bau A.G. were dissolved. Existing assets of such firms were placed under trusteeship. ACC Directive No. 50 provided for transfer of Nazi properties to persons or organizations having claims thereto.

Such transfers were made by military commanders in the name of Allied authorities. Thus for instance, part of the DAF assets were returned to the Koneungesellschaft. Property for which no claimants could be found was transferred to the Land in which located in accordance with ACC Directive No. 50. The individual Laender then assumed all liabilities outstanding against such transferred properties.

In 1953 Niedersachsen appealed to the Military Government R.O.R. at Celle for transfer of Volkswagenwerke to Land Niedersachsen. The R.O.R. forwarded this appeal to the Internal Restitution Section. The High Commissioner reserved the decision for himself. No decision was made prior to the coming into force of British High Commissioner Regulation No. 254 of June 18, 1954, dissolving R.O.R. Article 3 of Regulation No. 254 provides for the transfer to claimants of all properties still outstanding. On this basis Volkswagenwerke would have passed to Land Niedersachsen but the decision was never implemented. Niedersachsen acquired other properties under terms of Article 3, Regulation No. 254 so the precedent exists

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for the Volkswagenwerke transfer. No one has ever seriously contested the view that Volkswagenwerke was DAF property.

It appears to be the aim of the Niedersachsen Finance Minister to win over the Landtag to pressing this claim against the Federal Government before anything can be done to implement the CDU/CSU draft law to turn Volkswagenwerke over to private control and sell Volksektion in the firm. The legal basis of Niedersachsen's claim appears to be good enough to merit serious consideration. It is very likely that Finance Minister Koch would be as surprised as anyone to see Volkswagenwerke eventually end up in the sole possession of Land Niedersachsen. However, he has been very hard pressed to balance the Niedersachsen budget for the fiscal year beginning April 1, 1957. Debate on the budget is still occupying a large portion of the time of the Landtag. Even with sharp cuts the budget could not be balanced without Federal aid. Whereas the Land Government was hopeful of getting some DM 140 million from the Federal Government, it actually will receive only about DM 90 million with a one year moratorium to cover the balance.

New Land legislation this year has increased the obligations of the Land to the various communities and smaller administrative units within the Land. The refugee problem, school and housing construction costs and other financial burdens threaten the Land with a continuing financial crisis. A reliable source has confirmed that the Finance Minister hopes to force the Federal Government to agree to a generous settlement in return for dropping Niedersachsen's claim and clearing the way for implementation of the CDU/CSU draft law. The chances of bringing the deal off appear to be fair since a good deal of political capital could be made for and by the CDU on both the Federal and Land levels if the way could be cleared for the rapid implementation of the CDU/CSU draft law.

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